

24
9/26/02
Dm

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Conboy et al. Examiner: Butler, M.
Serial No.: 09/207,282 Group Art Unit: 3651
Appeal No.: 2002-1821
Filed: December 8, 1998 Docket No.: New: AMDA.379PA
Old: 1179.184US01
Title: MANAGEMENT OF MULTIPLE TYPES OF EMPTY CARRIERS IN
AUTOMATED MATERIAL HANDLING SYSTEMS

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this paper is being deposited in the United States Postal Service in triplicate, as first class mail, in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, on September 19, 2002.

By: Kelly S. Waltigney
Kelly S. Waltigney

Petition to Reconsider Reply Brief as Timely-Entered under §1.193(b)

BOARD OF PATENT APPEALS AND INTERFERENCES
Under Secretary of Commerce for Intellectual Property
and Director of the US Patent and Trademark Office
Washington, DC 20231

This communication is responsive to the Examiner's Response to Applicant's Reply Brief, mailed on May 6, 2002, in which Examiner Butler indicated that Applicant's Reply Brief was not entered because it was not filed within the allotted two months from the date of Examiner's Answer. Applicant hereby petitions for reconsideration and submits that Applicant's Reply Brief was timely entered within the allotted two months from the revised (corrected) mailing date of Examiner's Answer. The facts are as follows.

1) Pursuant to a conversation with Examiner Butler and at his request, an Associate Power of Attorney with request to send all future Correspondence to CRAWFORD Address was filed on June 11, 2001. This request is consistent with not only the conversation with Examiner Butler, but also MPEP §403.01 which states:

BOARD OF PATENT APPEALS
AND INTERFERENCES

SEP 25 PM 3:29

RECEIVED

“Correspondence Held With Associate Attorney Where the attorneys bear relation of principal attorney and associate attorney, the correspondence will be had with the associate attorney unless the principal attorney directs otherwise. Ex parte Eggan, 1911 C.D. 213, 172 O.G. 1091 (Comm'r Pat. 1911). The associate attorney may specify or change the correspondence address to which communications about the application are to be directed.”

Thus, any correspondence mailed after June 11, 2001 should have been mailed to the address of the undersigned attorney of record.

- 2) Contrary to the above mentioned request to change the Correspondence Address, the Examiner's Answer was first mailed to the previously-noted correspondence address on November 23, 2001.
- 3) In response to Applicant's status queries, Examiner Butler remailed the Examiner's Answer to the correct correspondence address (address for the undersigned attorney of record). This re-issued and re-dated Reply Brief was dated January 4, 2002.
- 4) Applicant's Reply brief was timely mailed on March 4, 2002, which is within the two month deadline required for filing the Reply Brief.

Accordingly, Examiner Butler's decision not to enter Applicant's Reply brief is based on the erroneous argument that Applicant's Reply brief was not timely mailed within the two month deadline required for filing a Reply brief. Because this argument is erroneous, Applicant's Reply brief should have been entered.

We kindly request that the U.S. Patent and Trademark Office stand behind their 1/04/02 transmittal accompanying the Examiner's Answer, which we received on January 11, 2002 and presumably reset the date for reply (form PTO-90C). Even if the revised transmittal were somehow issued by the U.S. Patent Office in error to accompany the correct addressing of the Examiner's Answer, no where on this transmittal does it indicate that the transmittal is invalid or

of a lesser standard than any other important and dated Patent Office transmittal, by which the Applicant can calculate and duly rely on a time frame for Response.

In conclusion, we ask that you carefully consider all of the above arguments as well as one final point: the Reply Brief filed on March 4, 2002 did also contain a constructive Petition for Extension of Time, on page 6, prior to the signature block.

Though not believed to be necessary in view of the merits of this evidence, if a Petition fee is required, please charge Deposit Account No. 01-0365 (TT2221) for the thorough consideration of these arguments for entry of the Reply Brief on behalf of the aforementioned application under Appeal.

Respectfully submitted,

CRAWFORD PLLC
1270 Northland Drive – Suite 390
St. Paul, MN 55120
(651) 686-6633

By: 

Name: Robert J. Crawford
Reg. No.: 32,122

A-379PA



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/207,282 | 12/08/1998 | MICHAEL R. CONBOY | 11729.184US0 | 6584 |

7590 01/04/2002

ROBERT J. CRAWFORD
CRAWFORD PLLC
1270 NORTHLAND DRIVE
SUITE 390
ST. PAUL, MN 55120

EXAMINER

BUTLER, MICHAEL E

ART UNIT PAPER NUMBER

3651

DATE MAILED: 01/04/2002

Early Grant 27 3-7-02

Please find below and/or attached an Office communication concerning this application or proceeding.

CRAWFORD PLLC

CLIENT REF. NO. TT 2221

DATE SENT 1-15-02

INITIALS [Signature]

BOARD OF PATENT APPEALS
AND INTERFERENCES

102 SEP 25 PM 3:29

RECEIVED

RECEIVED

JAN 11 2002

CRAWFORD PLLC